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REMARKS

Applicant thanks the Examiner for the remarks and analysis contained in the Office Action. Applicant is especially grateful for the indication of allowed claims and allowable claimed subject matter. For the reasons indicated below, Applicant respectfully submits that all claims are allowable.

Claims 17-20 have already been allowed.

New claims 21-24 present the subject matter of original claims 4, 7, 9 and 12, respectively, rewritten in independent form. As the Examiner has already indicated that original claims 4, 7, 9 and 12 are allowable, claims 21-24 are allowable.

Applicant respectfully submits that claim 1 is not anticipated by the *Box, et al.* reference applied against claims 1-3, 6, 8, 11 and 13-16 under 35 U.S.C. §102(b). The *Box, et al.* reference does not include using an optimization metric comprising at least a cost restraint and a reliability constraint that are weighted such that one of the constraints has a priority that is higher than a priority of the other constraint. The *Box, et al.* reference includes weighting that is based on a particular path characteristic as described in column 14, lines 50-56. The *Box, et al.* reference might assign weight to whether a path is based on a cross-connection or a glass-through connection or on whether a path utilizes pre-existing spare capacity or adds new capacity to a spares network. That does not constitute having a weighted cost restraint and a weighted reliability constraint such that one of them has a higher priority than the other. Therefore, Applicant respectfully submits that claim 1 and its dependents cannot be considered anticipated by the *Box, et al.* reference.

Applicant believes that additional fees in the amount of \$730.00 are required for two claims in excess of twenty and three additional independent claims. The Commissioner is authorized to

charge Deposit Account No. 50-1482 in the name of Carlson, Gaskey & Olds in the amount of \$730.00. The Commissioner is authorized to charge Deposit Account No. 50-1482 in the name of Carlson, Gaskey & Olds for any additional fees or credit the account for any overpayment.

Respectfully submitted,

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Dated: 10/2/07

CERTIFICATE OF FACSIMILE

I hereby certify that this Response, relative to Application Serial No. 10/701,276, is being facsimile transmitted to the Patent and Trademark Office (Fax No. (571) 273-8300) on October 2, 2007.


Theresa M. Palmateer

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